

**STATEMENT OF EVIDENCE BY MAHINA-A-RANGI BAKER ON BEHALF OF NGĀTI PARERAUKAWA
11 SEPTEMBER 2016**

Qualifications and experience

1. My name is Mahina-a-rangi Baker. I affiliate to Te Ātiawa ki Whakarongotai, Ngāti Raukawa and Ngāti Toarangatira.
2. I hold a Bachelor of Science degree in Ecology and Biodiversity, a Bachelor of Arts in Māori Resource Management, and a Masters in Environmental Studies with Distinction, all from Victoria University of Wellington. I am currently pursuing a PhD in Collaborative Freshwater Modelling at the school of People, Planning and the Environment at Massey University. I am also certified as an independent RMA commissioner.
3. I currently work as an Environmental Consultant providing planning and environmental science advice to iwi, and am also part of the team who have been commissioned to research the 'Inland Waterways' aspect of the Waitangi Tribunal inquiry WAI 2200 Porirua ki Manawatu.
4. I have nine years' experience working in Māori environmental risk analysis for clients including the Ministry of Agriculture and Forestry (now the Ministry of Primary Industries), HortResearch (now Plant & Food research) and Organics Aotearoa New Zealand,.

Purpose of evidence

5. This statement of evidence is prepared for Ngāti Pareraukawa.
6. The purpose of this evidence is to provide expert advice to the Hearing Panel in relation to the assessment of environmental effects which have arisen from the exercise of the Levin Landfill consents which are being reviewed.

Expert code of conduct

7. I have read the Code of Conduct for Expert Witnesses in the Environment Court's Practice Note (2014) and I agree to comply with that Code of Conduct. I confirm that the issues addressed in this brief of evidence are within my areas of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express. I have specified where my opinion is based on limited or partial information and identified any assumptions I have made in forming my opinions.

Statutory obligation to assess effects to Māori values

8. Under section 131 of the Resource Management Act 1991 (RMA), MWRC as the consent authority must have regard to the matters in section 104 of the RMA, which includes any actual and potential effects on the environment of allowing the activity and any relevant provisions of a national policy statement.
9. I wish to draw the Hearing Panel's attention to their statutory obligations to:
 - a. 'recognise and provide for the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga'. (Section 6(e) of the RMA)
 - b. 'have particular regard for kaitiakitanga'. (Section 7(a))
 - c. 'take into account the principles of the Treaty of Waitangi'. (Section 8 of the RMA)
10. In examining the information provided by the applicant and MWRC I note that there is no evidence of an assessment of the effects that have arisen from the exercise of the consent in regard to the matters in Section 6(e) and Section 7(a) of the RMA, and there is no evidence of the applicant or consenting authority upholding the principles of the Treaty of Waitangi,

in particular the duty of both parties to consult in the spirit of partnership. Therefore the applicant and MWRC are failing to meet their statutory obligations.

11. I advise the Hearing Panel to keep in mind that the RMA is quite clear that the onus to conduct the assessment of effects falls primarily on the applicant, and secondarily on MWRC as the consenting authority. In order for a resource consent to be granted, the RMA process requires the applicant to demonstrate that the effects on the matters set out by the RMA are less than minor; the onus does not fall on the community, or in this case on Māori specifically, to prove that the effects are more than minor in order to influence a decision.
12. An assessment of effects to the matters raised here is a standard aspect of the RMA consent process. Cultural Impact Assessments are typically sought as a means of the applicant and consent authority to meet their statutory obligations to facilitate meaningful and effective participation of Māori in the assessment of effects. These should be mandated and ideally carried out by mana whenua.
13. Methodologies adopted by those conducting Cultural Impact Assessments for assessing effects to Māori values are well established in New Zealand resource management practice.¹
14. There is a clear issue of equity in that it appears that the Hearing Panel is being asked to consider the matters outlined above based on limited information being provided by submissions of tangata whenua, in contrast to the comprehensive information that has been generated by the applicant and consenting authority regarding other matters.

Implications of not meeting statutory obligations

15. Based on my experience providing Cultural Impact Assessments for similar consents such as those required for the discharge of leachate from the Otaihanga Landfill and contaminated soil from sites within the designation of the Mackays to PekaPeka project, the likelihood that the effects to the matters raised here are significantly adverse is high.
16. It is clear that the people of Ngāti Pareraukawa and other Māori groups have a distinct relationship with the receiving body, that being the Hokio Stream, in that they have regular contact with it and use it to access food resources. These effects cannot be fully determined if the Hearing Panel is just to rely on submissions that may be made through a hearing.
17. Any decision by the Hearing Panel that has relied on limited or partial information regarding the matters outlined above would not reflect a fair process or the principle of natural justice, and in my opinion as a researcher for the Waitangi Tribunal inquiry into this district, would represent a breach of the Treaty of Waitangi by persons exercising power under Crown legislation in the management of freshwater.

¹ Baker, M., 2012. The Korowai Framework: assessing GE through tribal values. *New Genetics and Society Special Edition* vol 31(1); Harmsworth, G.R, Young, R.G., Walker, D., Clapcott, J.E., James, T., 2011: Linkages between cultural and scientific indicators of river and stream health. *New Zealand Journal of Marine and Freshwater Research*. 45:3, 423-436; Harmsworth, G. 2002: Coordinated Monitoring of New Zealand Wetlands, Phase Two, Goal 2: *Māori environmental performance indicators for wetland condition and trend*. Ministry for the Environment, Wellington.
<http://www.pacificwater.org/userfiles/file/IWRM/Toolboxes/m%20%26%20e/Wetland2Report.pdf> ;
Hutchings, Tipene, Carney, Greensill, Skelton and Baker, 2012: Hua Parakore: an indigenous food sovereignty initiative and hallmark of excellence for food and product production. *MAI Journal* 1(2) pp.131-45; Tipa G, Tierney L 2003. A cultural health index for streams and waterways: indicators for recognising and expressing Māori values. Wellington, Ministry for the Environment